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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	CC Docket No. 98-170
Truth-in-Billing and	)	
Billing Format	)	

AT&T Comments

Mark C. Rosenblum
Richard H. Rubin

Its Attorneys

Room 3252I3
295 North Maple Avenue
Basking Ridge, NJ 07920
(908) 221-4481

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Pursuant to the Commission's Notice of Proposed Rulemaking, FCC 98-232, released September 17, 1998 ("NPRM"), AT&T Corp. ("AT&T") submits the following comments on the subjects of truth-in-billing and billing format.

Introduction and Summary

AT&T strongly supports the principle that consumers are entitled to receive accurate billing information from carriers about the communications services they offer. Such information enables consumers to determine what services they are receiving, who provides those services, and whether the charges billed for those services are correct.[1] Such information also enables consumers to make informed purchasing decisions, which are the foundation of a competitive marketplace. Because consumers depend on such information, AT&T goes to great lengths, and incurs significant expense, to provide it to customers and also to respond promptly and accurately to its customers' inquiries.

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[1] NPRM, ¶ 1.

The NPRM discusses several possible new regulatory requirements regarding the billing practices of telecommunications carriers and asks for comment on whether those new rules might help to address problems associated with slamming and cramming. AT&T believes that market solutions to these problems, combined with prompt enforcement of existing statutory requirements, is the best way to resolve most of these issues. Moreover, given the current limits on the information available to carriers and the Commission's limited jurisdiction in these matters, there are only a few new rules that could actually achieve the NPRM's objectives.

First, although AT&T agrees that consumers might benefit from the inclusion of information about the status of their accounts, the fact that resellers do not have separately identifiable carrier identification codes ("CICs") makes it impossible to impose such a requirement at this time. However, if a LEC permits its customers to implement a primary interexchange carrier ("PIC") freeze or similar mechanism, it would be reasonable to require the LEC to indicate this fact on its bills.

Second, AT&T agrees that consumers should have access to information on their bills that will enable them to assure that they are only billed for the interstate telecommunications services they have ordered, that those

services were provided by their chosen vendors, and that they are billed at the correct rate. There is little need to adopt new or specific rules in this area, however, because Section 201(b) of the Communications Act provides the Commission with all the authority it needs to address these issues. Nevertheless, AT&T encourages the Commission to convene a forum in which all interested parties, including carriers, consumers and state and federal regulators, could develop guidelines on billing and related matters.

Third, AT&T supports rules that would require all interstate telecommunications carriers to identify themselves, and not just a billing aggregator, on their bills and to include a toll-free number on their bills for interstate telecommunications services. These rules would assure that consumers know who is providing their services and give them ready access to their service providers whenever they have a question or problem.

I. The Commission Should Generally Allow the Market to Operate in These Areas.

In considering any new rules, the Commission should generally allow the market to weed out questionable practices. Responsible vendors such as AT&T must always be mindful of consumers' information needs and meet those needs in order to protect their brand and market reputation. Thus, AT&T and other responsible carriers take great care to

assure that their customers have the information they need to make informed decisions.

Moreover, through constant interaction with consumers, responsible carriers are likely to be in the best position to understand how much, and what kinds, of information their customers want and need. These carriers' efforts to find new and more effective ways of communicating with consumers should not be hindered by unnecessary regulatory rules. Therefore, the Commission should not require carriers to use specific words or formats to describe their telecommunications services or charges, because it would deprive consumers of additional, and typically helpful marketplace choices.

Furthermore, any Commission rules on these subjects must not interfere with, or constrain, conscious choices made by customers. For example, consumers who choose to purchase combinations of telecommunications and non-telecommunications services should be permitted to do so under mutually agreeable terms, especially if the telecommunications services in the packaged offer are separately available under arrangements that are consistent with any truth-in-billing rules. Similarly, customers who prefer to be billed electronically, or to be billed on other than a monthly basis, should be permitted to billed in that manner. In addition, no new billing rules should apply to

telecommunications services or charges for large business customers.[2]

II. A Rule Requiring that Bills Identify the Customer's PIC Cannot Be Implemented at this Time.

The NPRM (¶ 18) seeks comment on whether a rule requiring that telephone bills identify the current status of consumers' accounts, particularly their PICs, would help to combat problems associated with slamming. AT&T believes that it might. However, such a rule cannot be implemented at this time.

In order to provide customers with complete and accurate information, data must be available to identify both facilities-based and reseller PICs. This is not currently possible, because resellers are not assigned carrier identification codes. Thus, LEC systems will not be able to determine whether a customer's telecommunications service is provided by a reseller or by a facilities-based carrier whose network physically handles the call.

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[2] The Commission has already applied its forbearance authority to the geographic rate averaging requirements for such services. Policy and Rules Concerning the Interstate, Interexchange Marketplace, Implementation of Section 254(g) of the Communications Act of 1934, as amended, 11 FCC Record 9564, 9576-77 (1996). Such action was completely appropriate, because those services are subject to intense competition and the customers who buy them are sophisticated and have significant opportunities to negotiate all the terms and conditions of their service arrangements.

If only a reseller PIC's underlying facilities-based carrier were identified on a bill, its customers would likely be confused. This, in turn, would generate unnecessary calls to the billing LEC, the reseller or the underlying facilities-based carrier. Therefore, the Commission cannot consider such a requirement until the underlying data are available. At such time, the Commission could then consider how long it might take to implement the billing changes necessary to implement such a requirement and whether the benefits of imposing such a requirement would outweigh the costs.

In contrast, if the LEC permits its customers to implement "PIC freezes" or similar mechanisms, it would be reasonable to require that customers' bills provide information on what the LEC's records show regarding those options. This information is readily available to the LEC, and AT&T believes that it would not be difficult, costly or time-consuming to have this small amount of information added to customers' bills.

III. The Commission Does Not Need to Adopt a Rule Requiring Carriers to Provide Truthful and Non-Misleading Information Regarding Billed Interstate Telecommunications Services.

There is no doubt that consumers are entitled to truthful and non-misleading information about the

telecommunications services that are billed by, or on behalf of, a carrier.[3] AT&T's policy is to provide every reasonable assurance that its customers can determine if the AT&T services listed on their bills are the ones they have requested and if the charges for those services are consistent with their service arrangement. This policy, which AT&T takes very seriously, is not merely consistent with sound legal principles. It also makes good business sense.[4]

Section 201(b) provides that "all charges [and] practices . . . for and in connection with [a] communication service shall be just and reasonable." A rule requiring carriers subject to Commission's jurisdiction to provide consumers with truthful and non-misleading information describing the interstate telecommunications services that they bill, or are billed in their name, would thus be superfluous. It would merely be a specific application of

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[3] See NPRM, ¶ 10 ("[f]airness in billing mandates that bills be both intelligible and legitimate").

[4] By providing customers with the information they need to validate the services and charges that appear on their bills, AT&T creates consumer trust and loyalty, both of which are critical to maintaining AT&T's reputation and brand name. At the same time, providing consumers with such information avoids the costs required to handle individual customer inquiries and complaints, which are typically at least several dollars per call. See NPRM, ¶ 9 ("[w]e similarly believe that it is in the interests of IXCs and other carriers to inform fully their end user customers of the nature and amount of all charges they assess").

the existing statute. Indeed, the NPRM (n.17) recognizes this fact, stating that "even prior to the adoption of any rules in this proceeding, . . . the Commission will move swiftly to protect consumers from unscrupulous carriers who [act] in violation of Section 201(b)'s mandate that carrier practices be just and reasonable." Therefore, no new rule is needed.

Moreover, it would be practically impossible to adopt a rule that would require carriers to use specific language to describe an individual billed telecommunications service, or any charge for such a service. The NPRM (¶ 20) itself recognizes that many different factors can affect the determination of whether a statement is misleading, identifying at least eight different items that have been considered in making such decisions. Thus, no detailed rule could reasonably encompass the variety of factors that may be relevant in a particular case.

Further, telephone bills, like other bills, are not the service agreement between a carrier and its customer. Rather, bills are used to implement those arrangements by invoicing the customer for the current charges owed.[5] Thus,

[5] The NPRM's references (e.g., ¶ 8) to the Truth in Lending Act ("TILA") are inapt. TILA, and particularly Regulation Z, were enacted to cover the issuance and use of revolving credit. Telephone bills typically do not extend such revolving credit.

any rules requiring mandatory notices regarding changes to a customer's service arrangement should be dissociated from customer billing requirements.[6] Moreover, different service arrangements naturally require that consumers receive different information.[7] Thus, the information customers need to validate the services and charges listed on their bills varies widely, and no specific rule could fit every case.

In all events, there is always more than one way to express and present the information that customers require. Thus, carriers must be permitted to have the flexibility to use words and billing formats that are best suited to their relationship with a particular customer. First and foremost, carriers need flexibility to state the necessary information in ways that are most appropriate to the

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[6] Carriers that wish to comply with such notice requirements through use of bill messages or bill inserts should, of course, be permitted to use such vehicles. AT&T also believes that if any periodic (as opposed to one-time) notices are required to describe changes in a service or service charges, the costs of issuing more than one annual notice would be excessive, especially if carriers are required to provide toll-free numbers directly on each bill (see Part IV below).

[7] For example, some telecommunications services have one-time charges, others are billed on a recurring basis. Some services are billed at varying per minute rates, while others are billed at a flat rate or at fixed per minute rates. Some services establish their rate structures based on an assumption that there will be detailed billing, while others may provide for flat rates for unlimited numbers of calls, or for only summary billing.

particular customer situation. Mandating the use of specific language or formats to describe a particular service or charge deprives both carriers and customers of the opportunity to communicate in the manner most effective for them.

For example, mandating specific bill formats would be particularly problematic at this time, as competition is expected to lead to the development of service packages and "bundles" that will blur the current division of telecommunications and non-telecommunications services offered today (see NPRM, ¶ 17). Thus, there are numerous ways that the information on a bill can be presented in a logical and coherent manner, and none is so inherently superior that it should be mandated in a rule. Moreover, as noted above, entities that issue bills (either for their own or others' services) have a business interest in providing information that will not confuse customers and generate the additional costs required to respond to consumer inquiries.

This does not mean, however, that some uniformity among different carriers' billing practices is undesirable or unachievable. AT&T would strongly support the creation of a national forum in which carriers, customer representatives and federal and state regulators could work toward consensus guidelines, similar to the LEC Anti-Cramming Best Practices Guidelines. This would be fully consistent with the

Commission's stated intention (NPRM, ¶ 6) "to initiate a dialogue with the states, consumer advocacy groups and the industry" to address issues discussed in the NPRM.

AT&T would welcome Commission action to establish a forum to address such issues. Such a forum would avoid jurisdictional problems in establishing rules that apply to the many different types of telecommunications and non-telecommunications charges that now appear on bills rendered by telecommunications companies.[8] By bringing together entities on all sides to work through these issues, all of the relevant legal, regulatory and commercial expertise can be brought to bear to address current problems. Moreover, the adoption of guidelines rather than rules would allow reasonable variations in viewpoints and honor carriers'

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[8] The Commission's jurisdiction likely extends only to the billing of interstate telecommunications services. Section 2(a) of the Communications Act states that "the provisions of this act shall apply to all interstate and foreign communications by wire or radio and all interstate and foreign transmission of energy by radio, which originates and/or is received within the United States." Thus, even assuming the Commission has Title I authority with respect to carriers' billing for their own or other carriers' interstate telecommunications services (see NPRM, ¶ 12 and cases cited therein), its authority does not extend more broadly. For example, termination of dial tone for local exchange service and termination of intrastate toll service are primarily state issues. Thus, state regulators should decide issues such as whether telephone bills should differentiate between "deniable" and "non-deniable" charges and what, if any, notices should be provided on customers' bills regarding disconnection of these services (see NPRM, ¶ 24).

First Amendment rights without sacrificing the basic principle that customers are always entitled to reasonable, accurate and not misleading information.

Such a forum could be particularly valuable in generating a common terminology to describe charges relating to carriers' universal service and access contributions.[9] If a consensus could be developed, it would certainly make it somewhat easier for consumers to compare similar charges assessed by different carriers. Moreover, carriers that choose to follow such guidelines could expect to be within a

[9] Questions in the NPRM that directly or indirectly relate to the amount various carriers charge for specific line item charges (NPRM, ¶ 31) are beyond the scope of this proceeding. Such questions are essentially rate level issues that must be reviewed separately. Moreover, such issues must be addressed in light of the Commission's decision to refrain from mandating a specific form of recovery for such costs, so that the market would be able to offer consumers different choices. Similarly, questions in the NPRM (id.) about how specific charges may relate to the costs of serving individual customers are inconsistent with the geographic rate averaging requirements of Section 254(g). Those requirements force carriers to develop and apply nationwide averaged rates for rate averaged services. This, in turn, means that carriers must set charges that are based on average costs and makes the actual cost of serving specific customers irrelevant. Trying to explain this information, which is a result of governmental efforts to balance different policy objectives, on consumers' bills would create nearly hopeless confusion. Finally, any suggestion that carriers could be required to publish an agency's views on a policy issue, or effectively precluded from publishing their own views, raises First Amendment issues.

"safe harbor."[10] The Commission should recognize, however, that competitors in the commercial marketplace often use different names to describe different features, attributes or charges for their services. As long as the words used to describe a charge on a bill are not false or misleading, there should be no cause for concern.[11]

Another issue that could be addressed in such a forum is the way to enable customers to identify "new" services and charges listed on their bills for the first time.[12] AT&T agrees that it would be desirable to develop guidelines for informing consumers about the appearance of "new items" on their bills. However, there should be a clear consensus on what is covered by the definition of "new." In addition, there should be a means to provide consumers with this information that does not require the expense of printing

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[10] See NPRM, ¶¶ 27-30. In this context, it should be noted that the best course in developing labeling is often the simplest. Moreover, there is simply no basis to require carriers that use a lawful name for a charge to provide the regulatory and legal history relating to that charge. Not only would such information -- especially if told in mandatory terminology -- be likely to confuse consumers, but it would also generate significant costs.

[11] This does not condone, however, the use of names for services or charges that misdescribe their purpose or that are deliberately designed to confuse consumers. Such tactics would clearly fall into the category of misleading information and thus would be covered by the general rule described above.

[12] See NPRM, ¶ 19.

additional sections on the billing statement, which would be unnecessarily costly.[13]

IV. Carriers Should Be Required to Identify Themselves and Provide Toll-Free Numbers on Bills.

AT&T agrees with the Commission's proposal (NPRM, ¶ 23) to require that the name of the actual service provider, i.e., the carrier with which the customer has the legal relationship, and not just the name of a billing aggregator or clearinghouse, should be included on each bill. Customers are entitled to know -- and to see -- the name of their service providers, not just the name of a billing agent, so they can be assured that their service is only being provided by their chosen carriers.[14]

AT&T also supports the adoption of a rule requiring carriers to include a toll-free number on bills that consumers can use to make inquiries and lodge complaints concerning their interstate telecommunications services.[15]

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[13] In order to reduce resource and mailing costs, AT&T-issued bills frequently use two-sided printing. Requiring the use of an entirely new section (or page) on a bill to identify "new items" would be very expensive and unnecessary.

[14] The Commission is also correct (NPRM, ¶ 23) that resellers should be specifically identified. Resellers should not be able to confuse consumers by hiding behind the name of a facilities-based carrier, nor should they be able to obscure the type of slamming identified in the Notice.

[15] See NPRM, ¶¶ 33-34.

In today's marketplace, a toll-free number is the easiest and most direct way for consumers to reach vendors, including telecommunications carriers. If a toll-free number is provided, consumers may raise a question or complaint and obtain other information, such as an address, that may be needed to pursue matters that the customer wants to follow up in writing.

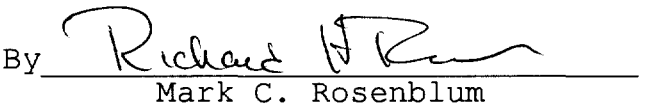
The number that is provided on the bill should be for an entity that is authorized to act on behalf of the billing carrier. Thus, as long as the carrier is properly identified on the bill, it would be permissible for the carrier to list the telephone number of a billing agent or other third party, provided that such entity is fully authorized to act on the carrier's behalf with respect to such matters. The carrier must, however, be bound by the actions and omissions of its agent, and should not be permitted to escape liability by disclaiming the agent's authority.

Conclusion

For the reasons stated above, the Commission should adopt rules consistent with AT&T's comments.

Respectfully submitted,

AT&T CORP.

By 

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